

## REMARKS

By this Response, Claims 25 and 33 have been amended, Claims 45-52 have been added, and Claims 31, 34-35, and 39-44 have been cancelled. Claims 25-30, 32-33, 36-38, and 45-52 remain pending in the application, with Claims 25 and 33 being independent claims.

### The Interview

Applicants' representative would like to thank the Examiner for the helpful suggestions provided by the Examiner during the interview. During the interview, Applicants' representative provided the Examiner with a corner the shipping base as claimed. Applicants' representative explained how, in the example represented by the model, the holes in the bottom of each socket, below each of the ribs within the socket, avoid any connection between the ribs and the bottom of the socket, thereby enhancing the flexibility of the ribs. Applicants' representative further explained that, by having an outer edge with a lower top surface than the inner edge, the outer skin of an appliance disposed on the shipping base is protected. Specifically, if an upward blow is applied to the bottom portion of the outer edge of the shipping base, for example, by someone setting down the shipping base while it is angled, the distance that the outer edge of the shipping base would need to flex upward before striking the outer skin of the appliance is increased, thereby resisting damage to the appliance.

Upon comparing the model to US 5,566,624 (Brown), the Examiner suggested claiming the holes in the bottom of the socket disposed below each of the ribs. These holes ensure that the bottom edges of the ribs are not connected to the bottom of the socket, thereby providing the ribs with a greater degree of freedom to flex. Additionally, the Examiner suggested reciting the upwardly protruding bulge in the center of the bottom of each socket, which holds the foot above the bottom of

the ribs, and resists any portion of the foot from getting caught below the bottom edges of the ribs. Further, the Examiner suggested reciting that the bottom of the socket is disposed above the bottom of the base. With respect to the side edges, the Examiner suggested further refinement of the recitations of the lowered outer edges of the shipping base, to more clearly recite the structures which provide protection to the outer skin of an appliance on the shipping base.

**Rejection of Claims 25-44 under 35 U.S.C. §102(b)**

The Examiner rejected Claims 25-44 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,566,624 (Brown). The cancellation of Claims 31, 34-35, and 39-44 makes this rejection moot with respect to these claims. Reconsideration and allowance of these claims is respectfully requested based on the amendments to the independent claims and the arguments presented below.

Independent Claims 25 and 33 recite that the sockets for receiving the feet of the article include a plurality of *flexible* ribs projecting *inwardly* into the walls of the sockets. As explained in paragraphs 31-32 and 35 of the Specification, these ribs deflect outward when a foot of an appliance is inserted into the socket. The flexibility of the ribs is further aided by the separation of these ribs from the bottom wall of the socket, created in some embodiments by holes disposed below the bottom edge of each of the ribs within the slot, as recited in Claim 25. Because the ribs are separated from the bottom wall of the socket, and because there is no wall present along the top edge or inside edges of the ribs, the ribs are secured only along the outside edges, so that there is no structural feature within the socket that would inhibit the flexibility of the ribs.

Brown discloses a pallet having a plurality of feet defined thereon. The feet 24, 26, 28, 30 have a plurality of ribs 41 formed thereon “[t]o achieve increased stiffness of each foot.” Brown, column 3, lines 64-65. Furthermore, referring to Figs. 5-6 of Brown, the ribs 41 are illustrated as

having three side walls, and being connected to the bottom of the foot, a structure which would clearly inhibit flexibility. Lastly, the ribs 41 project outwardly from the feet 24, 26, 28, 30. An outwardly projecting rib is clearly incapable of engaging a foot of an appliance, if one were to be inserted into the feet 24, 26, 28, 30.

The Examiner considered the reinforcing ribs 41 of Brown to be flexible, because the pallet of Brown was molded from a thermal plastic material. However, as explained at column 4, lines 5-10, the feet are two to three times as deep as the pallet deck 22, thereby making the feet “particularly stiff.” Therefore, nothing within Brown teaches or suggests flexible ribs.

The Examiner continues to cite *Fredman v. Harris-Hub Co., Inc.*, 163 U.S.P.Q. 397 (N.D. Ill. 1969) as indicating that “virtually anything will be bent or flexed if enough pressure is applied to it”, giving little substantial meaning to the term “flexible.” However, as explained in numbered paragraphs 39-48 of the district court’s opinion in *Fredman*, “flexible” clearly did not encompass “virtually anything.” Instead, the district court held that the defendant’s product was not flexible within the meaning of Claim 4 of the plaintiff’s patent based in part on the facts that plaintiff’s patent recited that a bedrail may be deflected as much as one inch, and the defendant’s product deflected less than one half inch. *Id* at 401. This holding was affirmed on appeal at *Fredman v. Harris-Hub Co., Inc.*, 169 U.S.P.Q. 768 (7<sup>th</sup> Cir. 1971). Therefore, although “flexible” may be a relative term, the term clearly does not encompass anything that might potentially flex if enough pressure were applied to it.

Independent Claim 33, as amended, recites that the side edges of the frame are disposed below a top surface of an inner portion of the base. If the bottom of the edge of the frame were to be subjected to a blow, for example, by someone improperly putting down the appliance at an angle, the

distance created between the outer edge of the base and the appliance would mean that the base would have to bend to a significantly greater degree before striking the appliance and potentially damaging the outer skin of the appliance. This similar feature is disclosed within Brown. Although Brown does disclose a slight recess along the outer edge of the pallet, the recess of Brown is insufficiently large to provide any protection to the side panel of an appliance. Additionally, regardless of how Brown is handled, the feet will usually end up in contact with the ground instead of the edge of the pallet.

New Claim 49 is dependent from Claim 33, and recites the holes defined within the bottom wall of each socket, corresponding to each of the bottom edges of the ribs within the socket.

Claims 45 and 50 recite that the bottom of the socket is disposed above a bottom of the base. Because the feet of an appliance are secured within the socket during transportation of the appliance, providing a gap between the bottom of the sockets and the bottom of the base may provide some additional cushioning for the appliance. Conversely, the feet of Brown are the specific portions of the pallet that come into contact with the ground to support the pallet. Claims 46 and 51 specifically recite this additional cushioning.

New Claims 47 and 52 recite the bulge projecting upward from the bottom wall of each socket. This bulge is structured to resist movement of a foot of an appliance below the bottom edges of the ribs. In the event that the foot of an appliance were capable of entering a socket to the extent to which it was below the bottom edges of the ribs, then depending on the shape of the foot, a possibility may exist for the foot to become caught under the ribs. This bulge resists this possibility. No similar structure is disclosed within Brown.

Claim 48 further defines the size of the outer edges of the base. These lowered side edges

provide the greatest protection to an appliance disposed on the base when they are positioned a sufficient distance below the outer skin of the appliance, and also a sufficient distance outward from the raised inner portion of the base so that they extend at least partially under the outer skin of the appliance.

For the above reasons, Claims 25-30, 32-33, 36-38, and 45-52 are respectfully submitted to be in condition for allowance.

### **Conclusion**

For the above reasons, the application is now submitted to be in condition for allowance. If the Examiner believes that any issues remain which could be resolved by a telephone call to Applicants' representative, the Examiner is invited to do so.

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